

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

TERRY BOOKER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
DELFASCO, LLC and)	
DELFASCO FINANCE, LLC,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Come Defendants, Delfasco, LLC and Delfasco Finance, LLC, collectively referred to hereinafter as "Defendants"), pursuant to 28 U.S.C. § 1441, and file this Notice of Removal to remove this civil action from the Chancery Court for Greene County, Tennessee, to the United States District Court for the Eastern District of Tennessee at Greeneville. In support of this Notice of Removal, Defendants state as follows:

NOTICE OF REMOVAL IS TIMELY FILED

1. Plaintiff filed this action, designated as Case No. 20130250, in the Chancery Court for Greene County, Tennessee on November 26, 2013. (*See* Ex. A, Compl.). Delfasco was informed by opposing counsel that this lawsuit had been filed on December 12, 2013, but was not provided a copy of the Complaint. This was the first notice Defendants received, through service or otherwise, of this lawsuit. Defendants have filed this Notice of Removal within thirty (30) days of the filing of this lawsuit. Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446(b).

THIS COURT HAS DIVERSITY JURISDICTION

2. Plaintiff is a citizen and resident of Greene County, Tennessee. (Compl.)

3. Defendants are Delaware corporations with principal places of business in the State of New York. (Compl.)

4. Defendants are not citizens of the State of Tennessee, and complete diversity of citizenship exists between Plaintiff and Defendants for purposes of this Court's exercise of original jurisdiction under 28 U.S.C. § 1332.

5. This action involves a claim in which Plaintiff's damages allegedly exceed the sum of \$75,000.00, exclusive of interest and costs, in controversy for purposes of this Court's exercise of original jurisdiction under 28 U.S.C. § 1332. Plaintiff is claiming damages equal to or less than \$1,500,000. (Compl.)

THIS COURT HAS FEDERAL QUESTION JURISDICTION

6. Plaintiff's only allegations are violations of Federal Law, namely, the Americans with Disabilities Act, 42 U.S.C. § 1201, et seq. and the Family Medical Leave Act, 42 U.S.C. § 2601, et seq. for the purposes of this Court's exercise of original jurisdiction under 28 U.S.C. § 1331.

THIS NOTICE OF REMOVAL IS PROCEDURALLY CORRECT

7. Pursuant to 28 U.S.C. § 1446(a), Defendants are attaching to this Notice of Removal a copy of the complete state court record from the Chancery Court for Greene County, Tennessee. (*See Ex. A.*)

8. The state court in which this action was commenced, the Chancery Court for Greene County, Tennessee, is within this Court's federal district. Therefore, venue is proper with this Court pursuant to 28 U.S.C. § 1441(a).

9. Defendants will promptly provide written notice of the removal of this action to Plaintiff and the Chancery Court for Greene County, Tennessee by filing a Notice of Filing of Notice of Removal, together with a copy of this Notice of Removal, and by serving the same on counsel for Plaintiff, as provided under 28 U.S.C. § 1446(d).

WHEREFORE, based upon the foregoing, Defendants hereby remove this civil action from the Chancery Court for Greene County, Tennessee to the United States District Court for the Eastern District of Tennessee at Greeneville.

DATED this 23rd day of December, 2013.

Respectfully submitted,

s/ Jennifer P. Keller

Jennifer P. Keller, BPR No. 018062

R. Andrew Hutchinson, BPR No. 025473

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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2013, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to counsel of record; and copies were furnished by U.S. Mail to counsel who were not provided a copy by the CM/ECF system:

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s/ Jennifer P. Keller
Attorney